

**TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING #95-01**

**WARNING**

**Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.**

**SUBJECT**

Applicability of sales tax to custom fabricated trucks.

**SCOPE**

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the department, but applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling and a retroactive revocation of the ruling must inure to his detriment.

**FACTS**

[THE TAXPAYER] contracts with a specific customer to fabricate a designated number of trucks. The customer furnishes the engine, transmission, drive shaft, rear axle and fifth wheel. [THE TAXPAYER] manufactures the frame and all other parts including the cab, brake system, radiator, steering gear, front axle complete with brake system, electrical systems, instrument assemblies, fuel tanks and other minor elements and accessories in accordance with all federal regulations.

The newly fabricated truck is then registered as a [YEAR] [NAME AND MODEL]. A new vehicle identification number is assigned to each truck, and an application is made for a new title. The trucks are delivered to the customer in Tennessee. The customer is charged a single contract price which does not include the cost for the component parts which are furnished by the customer.

### QUESTION

Whether sales tax applies to the single invoice price of the truck charged to the customer.

### RULING

Sales tax does apply to the single invoice price of the truck charged to the customer.

### ANALYSIS

The Tennessee Code Annotated defines a taxable sale to include “the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work.” T.C.A. § 67-6-102(24)(A) (1994). [THE TAXPAYER] has presented facts which fall within this definition. The trucks which [THE TAXPAYER] fabricates remain tangible personal property, and the Code specifies that this is treated as a sale even though the customer furnishes some of the materials used in the fabrication work.

The Tennessee Sales and Use Tax Rules and Regulations clarify that the taxable base is as follows: “Where persons contract to fabricate articles of tangible personal property from materials selected or furnished by customers, the total proceeds from the sales are subject to the Sales or Use Tax.” Rule 41. This Rule has clear application to the question presented in this Ruling. The taxable base in this type of sale is the total charge which is reflected in the single invoice price.

It should be noted that, in addition to the sales tax which [THE TAXPAYER] must remit on the sales price of the custom fabricated truck, the customer will owe tax on the component parts purchased by it and furnished to [THE TAXPAYER]. The customer will owe use tax on the component parts if it does not pay sales tax at the time of purchase. The customer cannot purchase the component parts on a resale certificate where the parts are to be used in the fabrication of its own truck.

Stephen Smith  
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APPROVED: Joe Huddleston, Commissioner

DATE: 1/10/95